Fordham Law Review

Volume 11 | Issue 1 Article 20

1942

Some Aspects of the Constitutional Guarantees of Civil Liberty

Ignatius M. Wilkinson
Fordham University School of Law

SOME ASPECTS OF THE CONSTITUTIONAL GUARANTEES OF CIVIL LIBERTY

IGNATIUS M. WILKINSON†

WE READ in our Declaration of Independence in the immortal language of Thomas Jefferson "that all men are created equal, that they are endowed by their Creator with certain unalienable rights, that among these are life, liberty, and the pursuit of happiness. That to secure these rights governments are instituted among men, deriving their just powers from the consent of the governed."

When the Constitution of the United States was adopted, however, and submitted to the several states for ratification in September, 1787, although its preamble provided among other things that it was intended to "secure the Blessings of Liberty, to ourselves and our Posterity," and the founding fathers sought to achieve this end by the then novel device of a separation of the powers of government into three great departments, executive, legislative and judicial, each designed to act as a check on the other two, the Constitution itself did not contain any specific provisions aimed at protecting those rights which the Declaration of Independence declared to be unalienable. In consequence the conventions of a number of the states at the time of their ratification of the Constitution, to quote from the preamble of the congressional resolution submitting the first ten amendments for ratification, "expressed a desire in order to prevent misconstruction or abuse of its powers that further declaratory and restrictive clauses should be added." Accordingly as Justice Brewer has pointed out in his opinion in *Monongahela Navigation Co. v. U. S.*,[1] to quiet the apprehension of many that "without some such declaration of rights the government would assume, and might be held to possess, the power to trespass" upon the unalienable rights of the citizen set forth in the Declaration of Independence, the Senate and House of Representatives by joint resolution submitted twelve articles—of which ten finally were approved—for ratification by the Legislatures of the requisite number of states as amendments to the Constitution. The joint resolution in question was adopted at the session of Congress which began on March 4, 1789 and which was held right here in New York.

---

† Dean, Fordham University, School of Law.

Address delivered on March 19, 1941 at the House of the Association of the Bar of the City of New York at the closing session of the series of Lectures on Law in Its Relation to Government, Industry and Liberty, held under the auspices of the School of Law of Fordham University to commemorate the Centenary of the University.

1. 148 U. S. 312, 324 (1893).

Vermont, the tenth, and Virginia, the eleventh state to ratify the proposed amendments which made the requisite three-fourths of the states, did so on November 3rd, and December 15th, 1791, respectively. It is altogether fitting and proper therefore that in the year 1941 which marks the sesquicentennial of the ratification of the ten amendments comprising our Bill of Rights as well as the centenary of Fordham University and in the very city where the Congress met when it submitted the first ten amendments to the several states for ratification, one of the lectures in the series being conducted under the auspices of the School of Law of Fordham to mark the centenary of the University should be devoted to a consideration of these constitutional guarantees of the liberties of the citizen which our Declaration of Independence declared to be unalienable.

It is obvious that in the time at our disposal this evening there is not the opportunity—even assuming that I had the capacity and you the patience for the task—for an adequate consideration of all of the ramifications of such a topic. I intend therefore to direct your attention to one or two phases merely of the First Amendment of the Constitution which particularly concern liberties vital to every one of us.

Let us refresh our recollection briefly on some of the fundamentals of our subject. The First Amendment to the Constitution reads as follows:

"Congress shall make no law respecting an establishment of religion, or prohibiting the free exercise thereof; or abridging the freedom of speech, or of the press; or the right of the people peaceably to assemble, and to petition the government for a redress of grievances."[2]

As early as 1833 the ten amendments comprising our Bill of Rights were stated by Chief Justice Marshall to apply as limitations upon the powers of the federal government only and not upon those of the several states.[3] Beyond doubt this is true of the first eight amendments,[4] the Ninth and Tenth Amendments being of a somewhat different character.

However, the Fourteenth Amendment which was adopted shortly after the Civil War and declared effective on July 28th, 1868, among other things provides in its first section that "no State shall make or enforce any law which shall abridge the privileges or immunities of citizens of the United States; nor shall any State deprive any person of life, liberty, or property, without due process of law";[5] and the Supreme Court in applying this amendment to situations in which statutes of the several

2. U. S. CONST. AMEND. I.

3. Barron v. Baltimore, 7 Pet. 242, 250 (U. S. 1833).

4. Eilenbacker v. District Court, 134 U. S. 31, 34 (1890); Brown v. Walker, 161 U. S. 591, 606 (1896).

5. U. S. CONST. AMEND. XIV.

states have been attacked as invalid under the due process section of the Amendment gradually has expanded its scope until today the Fourteenth Amendment constitutes practically as wide a prohibition against state action interfering with personal liberties as does the First Amendment above referred to in the field of federal law.[6]

With this brief outline of the history and something of the fundamentals of our constitutional protection of the liberties of the citizen it will be of interest in these days of alleged changing constitutional interpretation to examine critically and comparatively the attitude of the Supreme Court toward the liberties of the citizen as disclosed in some of its more recently decided cases. The turmoil of the times in which we live, the attempt by federal statutes to give a greater measure of protection to the laboring man in his dealings with his employer, the consequent strikes and picketing as well as appeals by street assemblies and hand-bills for sympathy and support in labor controversies, the conflicting ideologies together with the war in Europe and the consequent efforts here to insure national solidarity by statutes or school regulations calculated, whether wisely or not, to inculcate a proper spirit of patriotism in the young, have produced over the last several years a series of important pronouncements of the Supreme Court in the field of personal liberty of vital importance to every citizen. Let us examine them in the order of their decision.

In the case of *Hague v. Committee for Industrial Organization*,[7] the Supreme Court with Justices McReynolds and Butler dissenting, held invalid an ordinance of Jersey City which required a permit as a prerequisite to any public assembly, the law further authorizing a refusal of the permit where necessary to prevent a disorderly assemblage, disturbance or riot. Justice Roberts, writing for the majority, had this to say in the course of his opinion on the subject of freedom of assembly:

"We have no occasion to determine whether, on the facts disclosed, the *Davis* case was rightly decided, but we cannot agree that it rules the instant case. Wherever the title of streets and parks may rest, they have immemorially been held in trust for the use of the public and, time out of mind, have been used for purposes of assembly, communicating thoughts between citizens, and discussing public questions. Such use of the streets and public places has, from ancient times, been a part of the privileges, immunities, rights, and liberties of

6. Gitlow v. N. Y., 268 U. S. 652 (1923); Whitney v. California, 274 U. S. 357 (1927); Stromberg v. California, 283 U. S. 359 (1931); Hamilton v. Regents, 293 U. S. 245 (1934); Grosjean v. American Press Co., 297 U. S. 233 (1936); De Jonge v. Oregon, 299 U. S. 353 (1937); Herndon v. Lowry, 301 U. S. 242 (1937); Lovell v. City of Griffin, 303 U. S. 444 (1938); Schneider v. State, 308 U. S. 147, 160 (1939); Thornhill v. Alabama, 310 U. S. 88 (1940).

7. 307 U. S. 496 (1939).

citizens. The privilege of a citizen of the United States to use the streets and parks for communication of views on national questions may be regulated in the interests of all; . . . but it must not, in the guise of regulation, be abridged or denied."[8]

Compare this with the opinion of Justice Edward Douglas White in *Davis v. Commonwealth of Massachusetts,*[9] where adopting the language of that great dissenter and liberal, Justice Oliver Wendell Holmes, then a member of the Massachusetts Supreme Court, and affirming the judgment of that Court which had sustained the validity of a somewhat similar ordinance of the City of Boston, he wrote:

"For the legislature absolutely or conditionally to forbid public speaking in a highway or public park is no more an infringement of the rights of a member of the public than for the owner of a private house to forbid it in his house."[10]

Although the opinion of Justice Roberts in the *Hague* case attempts to distinguish the *Davis* case because of a difference in the scope of the Boston ordinance, Justice Butler dissented on the specific ground that the *Davis* case was controlling in the *Hague* litigation. Certainly it would seem that in the reasoning at least of the latter decision the earlier has been definitely overruled.

"Fine," perhaps you will exclaim, "In these days freedom of speech and of assembly certainly need protection. It is good to discover that whereas in 1897 freedom of speech and of assembly meant at most the liberty to go hire a hall, now they have been expanded to include the more or less wide open spaces as well." Here then we find an instance of a definite enlargement of the concept of liberty as applied to the rights of the citizen. It is an enlargement, however, it should be noted—and I shall have occasion to refer to this again before I conclude—which has been purchased at the expense of jettisoning a precedent which has stood untouched for over forty years. Let us next look at *Schneider v. State.*[11] This case, and three others decided at the same time, involved the validity of municipal ordinances prohibiting the distribution of hand-bills or circulars and in one case prohibiting as well any canvassing or solicitation. In three cases the prohibition was absolute. In *Schneider v. State,* the New Jersey case, the procurement of a permit was a prerequisite both to the distribution of hand-bills and to any canvassing or solicitation. A member of the society known as "Jehovah's Witnesses" had been con-

8. *Id.* at 515.
9. 167 U. S. 43 (1897).
10. *Id.* at 47.
11. 308 U. S. 147 (1939).

victed of canvassing without a permit, the briefs showing that she was going from house to house leaving booklets and exhibiting a card suggesting a contribution to enable the printing and distribution of similar booklets to others. Justice Roberts, again writing for the majority, which reversed the conviction had below, held that although a municipality concededly may enact regulations in the interests of public health, safety, welfare or convenience, such municipal regulations may not abridge or limit the liberties of the individual secured by the Constitution to speak, write or otherwise circulate information or opinion. Justice Roberts went on to point out that even though it be conceded that fraudulent appeals may be made in the name of charity and religion, a municipality cannot therefore require those who wish to disseminate ideas to present them first to the police authorities for their consideration and approval. The decision in this case is a logical consequence of course of the result reached in *Hague v. Committee for Industrial Organization* and illustrates again the trend of the Court in recent years to broaden the concept of civil liberty and to extend the rights of the individual protected by the constitutional guarantees thereof. I have no doubt that you will approve the decision.

We come next to *Thornhill v. Alabama*,[12] and its companion case *Carlson v. California*,[13] both decided on April 22nd, 1940. Here the Court was called upon to consider the validity of state statutes which prohibited loitering or picketing about a place of business for the purpose of inducing people not to deal with the proprietor thereof. The Court held both ordinances which were involved invalid because they trenched unduly upon the freedom of speech protected by the Constitution. Justice Murphy, writing for an almost unanimous court, stated that in the circumstances of the present day it was necessary to look upon dissemination of information concerning the facts in a labor dispute as within the area of free discussion protected by the constitutional guarantees.

"Free discussion," he went on to say in his opinion, "concerning the conditions in industry and the causes of labor disputes appears to us indispensable to the effective and intelligent use of the process of popular government, to shape the destiny of modern industrial society. The issues raised by regulations, such as are challenged here, infringing upon the right of employees effectively to inform the public of the facts of a labor dispute are part of this larger problem."[14]

Perhaps you will agree with his reasoning and yet you may as I do

12. 310 U. S. 88 (1940).
13. 310 U. S. 100 (1940).
14. Thornhill v. Alabama, 310 U. S. 88, 103 (1940).

find some interest in the question which Professor Charles O. Gregory of the University of Chicago Law School suggests in an article entitled "Peaceful Picketing and Freedom of Speech"[15] as to whether picketing as such, even when of the so-called peaceful kind, constitutes so much an exercise of free speech as it does pure and simple coercion.

Of course it is only fair to point out in this connection that in a very recent case, *Milkwagon Drivers Union v. Meadowmoor Dairies, Inc.*,[16] decided February 10th, 1941, the Supreme Court in an opinion by Justice Frankfurter held that acts of picketing in themselves peaceful, when enmeshed with contemporaneously violent conduct concededly outlawed, were properly the subject of a state court injunction under the traditional power of equity in such cases, and that the decree therefore did not contravene the constitutional guarantees of freedom of speech. It is interesting to note, however, as indicating the length to which some of the justices seem inclined to go in the field of civil liberties that the majority opinion in this case evoked vigorous dissenting opinions on the part of Justices Reed and Black, with Justice Douglas concurring in Justice Black's dissent.

We come next to *Cantwell v. Connecticut*,[17] decided May 20th, 1940, and we deal now with a case that touches not only free speech and free assembly but also the free exercise of religion as well. In this case, which like the *Schneider* case above referred to concerned members of the sect known as "Jehovah's Witnesses," which has been to the Supreme Court in various controversies three times since 1939, the Court reversed a conviction below and held invalid a Connecticut statute which forbade solicitation of money for religious purposes without obtaining a prior permit. The Court reaffirming its views suggested in earlier cases[18] held specifically that religious liberty guaranteed against federal encroachment by the First Amendment to the Constitution was one of the liberties protected likewise from state interference by the Fourteenth Amendment. It also reverted to its old distinction laid down as far back as the *Mormon* cases,[19] between freedom of religious belief, which is absolute, and freedom of action motivated thereby which necessarily is subject to some regulation for the protection of society. Justice Roberts, writing for a unanimous court, stresses this distinction when he says:

"The constitutional inhibition of legislation on the subject of religion has a

15. A. B. A. J. Vol. XXVI, p. 709, Sept. 1940.
16. 312 U. S. 287 (1941).
17. 310 U. S. 296 (1940).
18. Meyer v. Nebraska, 262 U. S. 390 (1923); Hamilton v. Regents, 293 U. S. 245 (1934).
19. Reynolds v. U. S., 98 U. S. 145 (1878); Davis v. Beason, 133 U. S. 333 (1890).

double aspect. On the one hand, it forestalls compulsion by law of the acceptance of any creed or the practice of any form of worship. Freedom of conscience and freedom to adhere to such religious organizations or form of worship as the individual may choose, cannot be restricted by law. On the other hand, it safeguards the free exercise of the chosen form of religion. Thus the Amendment embraces two concepts,—freedom to believe and freedom to act. The first is absolute but, in the nature of things, the second cannot be. Conduct remains subject to regulation for the protection of society. The freedom to act must have appropriate definition to preserve the enforcement of that protection. In every case the power to regulate must be so exercised as not, in attaining a permissible end, unduly to infringe the protected freedom."[20]

Again, although you may condemn as I do, the conduct and the fanaticism of the appellants in this case, in intruding into a predominantly Catholic neighborhood and playing a phonograph record on the public streets attacking the Catholic church and the Catholic faith, you will agree nevertheless, I am sure, that the Court's decision holding the statute invalid, was sound.

You may of course have noted by this time that although as Professor Kennedy suggested in his lecture in this series, "The New Constitutionalism,"[21] a recent phenomenon of the Supreme Court's consideration of cases involving the validity of statutes, state and federal, has been its obviously pronounced unwillingness and insistent refusal to act as a judicial censor of legislative bodies, yet in the field of civil liberty which we have been considering this evening the tendency is in exactly an opposite direction, and the Court has struck down statute after statute involving freedom of speech and freedom of assembly as undue encroachments on the liberties of the citizen. In these times with the spread of totalitarian doctrines throughout the world this tendency may be a sound and healthy one, particularly if its basis be a continuing recognition of the American doctrine enunciated in our Declaration of Independence which I quoted at the outset of my remarks this evening, that the state exists for the good of the individual essentially and not the individual for the state, or, putting it another way, that in the natural order of things the individual and the family came first and hence have natural rights which are not dependent upon the whim of any system of government.

However, we have yet to deal with one of the most important cases in

20. Cantwell v. Conn., 310 U. S. 296, 303 (1940).

21. Address delivered on March 5, 1941 at the House of the Association of the Bar of the City of New York at the opening session of the series of Lectures on Law in Its Relation to Government, Industry and Liberty, held under the auspices of the School of Law of Fordham University to commemorate the Centenary of the University.

the group of decisions in the field of civil liberties to which we are directing our attention this evening, namely, *Minersville School District v. Gobitis*.[22] This case was decided on the last day of the term of the Supreme Court on June 3rd, 1940. In this controversy also, a member of the sect known as "Jehovah's Witnesses" which has been the occasion of so much recent constitutional excitement was involved. Briefly, two children had been expelled from the public schools of Minersville, Pennsylvania, for refusing as required by a school regulation having the force of law, to salute the national flag as part of a daily school exercise. The children conscientiously believed that such a gesture was forbidden by sacred Scripture, and in a suit by their father the lower courts had restrained enforcement of the regulation as to them. The Supreme Court of the United States, by a vote of eight to one, reversed the judgment below and held the regulation enforceable. The opinion of Justice Frankfurter writing for the majority of the Court, seems based on the supposed fact that the necessity of fostering national unity through inculcating loyalty for the flag transcends all other considerations. Thus in the opinion he says:

"The ultimate foundation of a free society is the binding tie of cohesive sentiment. Such a sentiment is fostered by all those agencies of the mind and spirit which may serve to gather up the tradition of a people, . . . 'We live by symbols.' The flag is the symbol of our national unity, transcending all internal differences, however large, within the framework of the Constitution. . . . The precise issue, then, for us to decide is whether the legislatures of the various states and the authorities in a thousand counties and school districts of this country are barred from determining the appropriateness of various means to evoke that unifying sentiment without which there can ultimately be no liberties, civil or religious."[23]

All of this of course sounds patriotic and plausible, particularly at a time of great national peril such as confronts us presently. Yet it is difficult to avoid the logic of Justice Stone's ringing dissent when he says:

"The law which is thus sustained is unique in the history of Anglo-American legislation. It does more than suppress freedom of speech and more than prohibit the free exercise of religion, which concededly are forbidden by the First Amendment and are violations of the liberty guaranteed by the Fourteenth. . . . It is not denied that such compulsion is a prohibited infringement of personal liberty, freedom of speech and religion, guaranteed by the Bill of Rights, except in so far as it may be justified and supported as a proper exercise of the state's power over public education. . . .

"Concededly the constitutional guarantees of personal liberty are not always

22. 310 U. S. 586 (1940).

23. *Id.* at 596.

absolutes. Government has a right to survive and powers conferred upon it are not necessarily set at naught by the express prohibitions of the Bill of Rights. It may make war and raise armies. . . . It may suppress religious practices dangerous to morals, and presumably those also which are inimical to public safety, health and good order. . . . But it is a long step, and one which I am unable to take, to the position that government may, as a supposed educational measure and as a means of disciplining the young, compel public affirmations which violate their religious conscience."[24]

Certainly it seems that Justice Stone's point of view which coincides with that expressed by Chief Judge Lehman of our own Court of Appeals in his moving concurring opinion in *People v. Sandstrom*[25] expresses the sounder doctrine.

Where does the decision of the majority in the *Gobitis* case leave us with reference to civil liberty and the constitutional guarantees thereof? Certainly whatever the explanation of the attitude of the majority—and one explanation is that it represents merely the Court's view suggested by other cases that the state may impose any conditions it chooses with reference to participation in school ceremonies upon attendance at public schools, with the alternative to the non-conformist of educating his children at his own expense—the decision hardly can be reconciled with the more recent liberal views of the Court in the other cases involving civil liberty, to which we have referred. It may well be that the decision ultimately will be found to be of very limited application, although even in such an event it is unfortunate. Of course it could be very significant if it were symptomatic of the trend of the Court over the last several years to pay less and less attention to the doctrine of *stare decisis*. Indeed, right in the field of civil liberties to which we have been directing our attention this evening we have an instance of this trend in the decision of the Court in *Hague v. Committee for Industrial Organization, supra* as compared with its earlier view in *Davis v. Commonwealth of Massachusetts*. Moreover the opinion of Justice Frankfurter in the *Gobitis* case itself serves to cast considerable doubt on the continuing juristic validity of the historic decision in *Pierce v. Society of Sisters*,[26] the so-called *Oregon* school case. Thus while the opinion of Justice McReynolds in the *Oregon* case stresses the natural right of the parent to educate his children and the fact that the child is not the mere creature of the state, Justice Frankfurter, writing for the majority in the *Gobitis* case, while citing the *Oregon* case as an authority suggests that the result there reached is

24. *Id.* at 601.
25. 279 N. Y. 523, 533, 18 N. E. (2d) 840, 844 (1939).
26. 268 U. S. 510 (1925).

"because of reluctance to permit a single iron-cast system of education to be imposed upon a nation compounded of so many strains. . . ."[27] Is this to be taken to mean that policy merely and not natural right is now to be regarded as the basis of a parent's right to control the education of his children? Other illustrations of the same trend away from *stare decisis* will come readily enough to mind, in cases like *Erie Railroad v. Tompkins*,[28] which reversed a precedent that had stood for almost a century. There is also the case of *Helvering v. Hallock*,[29] which reversed earlier decisions of the Court supposedly controlling. Justice Roberts, dissenting in that case, with Justice McReynolds concurring with him, had this to say about the matter:

"If there ever was an instance in which the doctrine of *stare decisis* should govern, this is it. Aside from the obvious hardship involved in treating the taxpayers in the present cases differently from many others whose cases have been decided or closed in accordance with the settled rule, there are the weightier considerations that the judgments now rendered disappoint the just expectations of those who have acted in reliance upon the uniform construction of the statute by this and all other federal tribunals; and that, to upset these precedents now, must necessarily shake the confidence of the bar and the public in the stability of the rulings of the courts and make it impossible for inferior tribunals to adjudicate controversies in reliance on the decisions of this Court. To nullify more than fifty decisions, five of them by this Court, some of which have stood for a decade, in order to change a mere rule of statutory construction, seems to me an altogether unwise and unjustified exertion of power."[30]

There you have in the reasoned language of a great jurist who in no sense can be classified as an ultra-conservative, his opinion of some of the evils that result from refusing to follow well settled rules and principles laid down in previous cases.

If indeed, then, the explanation of the result in the *Gobitis* and other cases really is an abandonment or a substantial disregard of *stare decisis* as a binding guide in constitutional interpretation, then may we not well inquire "What price civil liberty?"

Chief Judge Irving Lehman of our New York Court of Appeals, delivering the annual address at the meeting of the New York State Bar Association held at the Hotel Waldorf Astoria on the evening of January 24th, 1941, in discussing the general problem put it well when he said:

"There are some, indeed, who say that the law of this land, as pronounced and

27. 310 U. S. 586, 598, 599 (1940).
28. 304 U. S. 64 (1938).
29. 309 U. S. 106 (1940).
30. *Id.* at 129.

administered by the highest court of this land, in January, 1937, was very different from the law of the land, pronounced and administered by the same Court in January, 1941; or even, some say, in January, 1938. If history could prove that these changes in the law have come through decrees of legislative bodies in the exercise of their unrestrained will, or by judges who determine what is the law in accordance with their own judgment and benevolent will instead of 'by the artificial reason and judgment of law,' then what we call law is, indeed, only a fiction, and what we call liberty is not an inalienable right but is a privilege which may be granted or withheld by the will and in accordance with the judgment of those who control the government or administer the courts. Judicial despotism, though benevolent, is hardly to be preferred to a despotism of the majority in the State, and the tyranny of a majority, unrestrained by law, may threaten the fundamental rights of individuals no less than the despotism of a single man."

Chief Justice Hughes once made the now famous statement that "the Constitution is what the judges say it is."[31] In the sense in which he doubtless meant it, that it is the function of the judicial branch of the government to apply the Constitution to, and interpret its meaning on, the facts of any particular case where a constitutional question is involved, the statement is valid and sound. In the sense in which it is sometimes sought to be employed, by jurisprudes of the realist and surrealist schools that precedents may be disregarded and that you may change your Constitution merely by changing your judges, it is vicious and misleading. And yet, abandon the doctrine of *stare decisis* completely, and that is precisely what the statement must come to mean and nothing else. In such case the civil liberty of today may well become the civil tyranny of tomorrow. In such case the guarantees contained in our Bill of Rights become just so many platitudes written in the shifting sands of individual judicial idiosyncracy. In such case we may well inquire again, "What price civil liberty?"

31. The statement was contained in an address delivered while Governor of New York at Elmira, New York. The complete passage containing the statement appears in the Record of Hearings before the Committee on the Judiciary of the United States Senate on the Reorganization of the Federal Judiciary, Part 2, at p. 186.

FORDHAM LAW REVIEW

Published in January, May, and November

VOLUME XI | JANUARY, 1942 | NUMBER 1

Subscription price, $2.00 a year | *Single issue, 75 cents*

CONTRIBUTORS TO THIS ISSUE

NICHOLAS S. TIMASHEFF, M.A., 1910, LL.D., 1914, University of St. Petersburg, Russia. Associate Professor, Department of Economics, Polytechnical Institute, St. Petersburg, 1917-1921; Professor, Russian Law Faculty, Prague, 1923-1928; Professor, Franco-Russian Institute and Institute for Slavonic Studies, Paris, 1928-1936; Lecturer in Sociology, Harvard University, 1936-1940; Assistant Professor of Sociology, Fordham University, 1940 to date. Author of AN INTRODUCTION TO THE SOCIOLOGY OF LAW (Cambridge, 1939) French translation (Paris, 1939) and numerous other volumes and articles.

JOHN D. O'REILLY, JR., A.B., 1928, Georgetown University; LL.B., 1932, Boston College; LL.M., 1933, Harvard University. Professor of Law, Boston College Law School. Author of *Administrative Absolutism* (1938) 7 FORDHAM L. REV. 310, and other articles and reviews in various legal periodicals.

IGNATIUS M. WILKINSON, A.B., 1908, College of St. Francis Xavier, New York; LL.B., 1911, Fordham University, School of Law; M.A., 1913, LL.D., 1924, Fordham University. Lecturer in Law, 1912-1916, Associate Professor of Law, 1916-1919, Professor of Law, 1919 to date, Fordham University, School of Law. Dean, 1923 to date, Fordham University, School of Law. Author of *The President's Plan Respecting the Supreme Court* (1937) 6 FORDHAM L. REV. 179, and other articles.

ARTHUR F. DRISCOLL, A. B., 1906, Brown University; LL.B., 1909, Harvard University. For twenty-three years member of the New York Bar.

ARTHUR BLOCH, Dr. of Laws, 1917, Griefswald University; Attorney at the Kammergericht Berlin (Court of Appeals), 1917-1936. Co-author of ANNOTATIONS AND COMMENTARIES TO THE GERMAN EMERGENCY DECREE OF 1931. Contributor to various legal journals and periodicals.

WERNER ROSENBERG, Dr. of Laws, 1930, Breslau University; Member of the Berlin Bar 1930; LL.B., 1941, Fordham University, School of Law. Contributor to various legal journals and periodicals.
